

Appeal from decision of Nevada State Office, Bureau of Land Management, dismissing protest against issuance of noncompetitive oil and gas lease. N-35424.

Affirmed.

1. Oil and Gas Leases: Applications: Filing

A simultaneous oil and gas lease application holographically (manually) signed by the applicant is signed in accordance with 43 CFR 3112.2-1(b) where in signing the application, the applicant discloses receipt of assistance from a filing service agent and a copy of applicant's agreement with the service is provided as required by 43 CFR 3102.2-6 (1981).

APPEARANCES: R. Hugo C. Cotter, Esq., Albuquerque, New Mexico, for appellant; John N. Galey, for appellee.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Patricia C. Alker has appealed from a decision of the Nevada State Office, Bureau of Land Management (BLM), dated May 6, 1982, dismissing her protest against the issuance of noncompetitive oil and gas lease N-35424.

The simultaneous oil and gas lease application of Elizabeth N. Galey was drawn with first priority for parcel NV-21 in the January 1982 simultaneous oil and gas lease drawing. The reverse side of the lease application form (Form 3112-1 (July 1980)) was stamped, in the space marked "Applicant's Signature," with the words "Elizabeth N. Galey, principal" and, in the space marked "Agent's Signature," with the words "by Sierra Oil & Gas Lease Corp., agent, by ____." The blank space contained the signature of "E. N. Galey." The application was dated January 11, 1982.

In connection with the January 1982 simultaneous filing, the Sierra Oil and Gas Lease Corporation (Sierra) filed certain documents in accordance with

43 CFR 3102.2-6(b) (1981). ^{1/} These documents included a copy of the uniform agreement between Sierra and its clients and a list setting forth the name and address of each client participating under the agreement. The name of Elizabeth N. Galey appears in that list. In addition, Sierra provided the names of those individuals authorized to act on its behalf, in the execution of simultaneous oil and gas lease applications. The name of "Elizabeth N. Galey (E. N. Galey)" appears in that list.

Effective April 1, 1982, a noncompetitive oil and gas lease was issued to Elizabeth N. Galey, pursuant to section 17 of the Mineral Leasing Act, as amended, 30 U.S.C. § 226 (1976). On April 12, 1982, appellant, as the second drawn applicant, protested issuance of the lease. Appellant argued that although the lease application form was in the name of Elizabeth N. Galey, it was signed by E. N. Galey, in her capacity as a representative of Sierra. Appellant argues that if Elizabeth N. Galey and E. N. Galey are the same person, then "the two identities are merged." As such, the application was that of an individual and was not properly "holographically (manually) signed in ink" in the space marked "Applicant's Signature."

In its May 1982 decision, BLM stated that documents filed in connection with the January 1982 simultaneous filing reveal that Elizabeth N. Galey and E. N. Galey are the same person, that there is an agreement between Elizabeth N. Galey and Sierra "indicating their agency relationship," that Elizabeth N. Galey is authorized to sign for Sierra, and that the application was signed in compliance with 43 CFR 3112.2-1(b). BLM dismissed the protest.

In her statement of reasons for appeal, appellant contends that Elizabeth N. Galey failed to comply with 43 CFR 3112.2-1(b) and (g) because the lease application form was not holographically signed in ink in the space marked "Applicant's Signature." Appellant argues that a person cannot be her own agent, and therefore, the signature in the space marked "Agent's Signature" is not sufficient compliance with the regulations.

43 CFR 3112.2-1(b) provides:

The application shall be holographically (manually) signed in ink by the applicant or holographically (manually) signed in ink by anyone authorized to sign on behalf of the applicant. Applications signed by anyone other than the applicant shall be rendered in a manner to reveal the name of the applicant, the name of the signatory and their relationship.

43 CFR 3112.2-1(g) provides: "The properly completed and signed lease application shall be filed in the proper office of the Bureau of Land Management."

While this case presents an unusual factual situation, we can discern no violation of Departmental regulations. In response to appellant's

^{1/} This regulation was subsequently repealed effective Feb. 26, 1982. 47 FR 8544 (Feb. 26, 1982).

statement of reasons, Elizabeth N. Galey explains ^{2/} that as she had received the assistance of Sierra in connection with the simultaneous oil and gas leasing system "she would have been unable to file for herself and claim that she had no assistance from a filing service." Accordingly, "she elected to file as a client of Sierra, and to authorize Sierra to act as her agent, on the same basis as any other client of Sierra."

The regulation at 43 CFR 3102.2-6 (1981), indeed, provides that an applicant receiving the assistance of a lease filing service must disclose the nature of any understanding or agreement with that service and provide a copy of the agreement. Alternatively, a filing service may provide a single copy of a uniform agreement with clients together with a list of the names and addresses of clients participating under the agreement as was done in this case. 43 CFR 3102.2-6(b). However, the disclosure requirement does not prevent an applicant from otherwise executing the lease application on his or her own behalf. Accordingly, Elizabeth N. Galey could have signed the lease application form on her own behalf.

[1] In the mistaken belief that Sierra had to sign the lease application form as her agent, Elizabeth N. Galey placed the name of Sierra in the space marked "Agent's Signature." However, recognizing that a corporation cannot sign for itself but must act through those individuals vested with authority to act on its behalf, Elizabeth N. Galey as an authorized employee of the corporation signed the form. We have held that 43 CFR 3112.2-1(b) must be strictly construed to require that at least one manual signature appear on the application, either that of the applicant or that of the applicant's agent. Fred E. Forster III, 65 IBLA 38 (1982). In this case, Sierra was the applicant's agent and Elizabeth N. Galey was vested with authority to sign on behalf of Sierra. In such circumstances, we conclude that the lease application form was "holographically (manually) signed in ink," in compliance with 43 CFR 3112.2-1(b). We cannot distinguish this case from a situation where one of the other individuals authorized to execute lease applications on behalf of Sierra had signed the lease application form of Elizabeth N. Galey. Further, it makes no difference if we accept appellant's contention that the signature is not in Galey's capacity as agent but as principal. We can find no error where the relationship between the principal and the filing service agent is fully disclosed as it is required to be and it is clear who the applicant is and who is signing the application. We do not view this as a violation of the requirement of 43 CFR 3112.2-1(g) that an application be "properly completed and signed." An applicant for a preference right to a lease will not be deprived of that right absent a clear violation of the regulations. Cliff Mezey (On Reconsideration), 66 IBLA 178 (1982). We can

^{2/} Appellant challenges the authority of John Galey, President of Sierra, to represent E. N. Galey before this Board. Since the record discloses that E. N. Galey is the mother of John Galey, there is no question of authority under the regulations as one family member may represent another. 43 CFR 1.3(b)(3).

discern no such clear violation. Accordingly, we conclude that BLM properly dismissed appellant's protest. 3/

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

Edward W. Stuebing
Administrative Judge

3/ Elizabeth N. Galey requests that the Board direct BLM to extend the term of the lease by the number of months that it is subject to this appeal and to refund a pro-rated portion of the annual rental based on this same time period. BLM acted properly in issuing Galey's lease and dismissing appellant's protest as we have held herein. The decision not to proceed to develop the lease is that of the lessee. Neither this Board nor BLM can preclude a party from litigating, either in administrative or judicial proceedings, their rights arising from a conflicting oil and gas lease application. Such action provides no basis for suspension.